

### REMARKS/ARGUMENTS

Favorable reconsideration of this application, in light of the following discussion, is respectfully requested.

Claims 1-14 are pending in this case. Claims 1, 10, 11, 13, and 14 are amended by the present amendment with support in the originally filed disclosure

The outstanding Office Action rejected Claims 1-14 under 35 U.S.C. § 103(a) as unpatentable over Hwang et al. (U.S. Patent No. 6,414,943, herein "Hwang") in view of Rydnell et al. (U.S. Patent No. 6,519,469, herein "Rydnell").

At the outset, Applicant and Applicant's representative thank Examiner Lebassi for the courtesy of an interview with Applicant's representative on July 8, 2010. The discussion during that interview is substantially reflected in the remarks herein.

Applicant respectfully traverses the rejection of the pending claims.

Claim 1 recites, *inter alia*, "an amount-of-data information determining means for monitoring the data which are stored in said transmit buffer on a communication-service-by-communication-service basis or on a transmit-channel-by-transmit-channel basis so as to determine communication-service-by-communication-service or transmit-channel-by-transmit-channel amount-of-data information; and a transmitting means for **transmitting** the communication-service-by-communication-service or transmit-channel-by-transmit-channel **amount-of-data information** determined by said amount-of-data information determining means **to a base station.**"

The outstanding Office Action asserts Hwang as teaching every element of Claim 1 except "means for monitoring the data which are stored in said transmit buffer," which it asserts Rydnell as teaching.

However, as discussed during the interview, Hwang fails to teach or suggest at least an amount-of-data information transmitting means as defined by Claim 1.

Hwang is directed to selecting the number of radio bearers in a mobile packet data communications system based on a desired data rate corresponding to the radio data service selected by the mobile station.

The portion of Hwang cited as teaching the claimed transmitting means for transmitting amount-of-data information is column 3, lines 52-58, which recites:

The mobile station 1 includes a transmit buffer 1b for temporarily storing transmit data according to the requested radio data service, and an MAC 1a for establishing a plurality of radio bearers used to send the transmit data at a data rate corresponding to the radio data service and examining the transmit buffer 1b to increase or decrease the number of the plural radio bearers established.

As discussed during the interview and as is clear from the excerpt of Hwang above, the mobile station 1 does not *transmit* any *amount-of-data information* at all. The MAC 1a is part of the mobile station 1 itself, as described at column 1, lines 31-35, of Hwang. As described in the excerpt above, the MAC 1a of the mobile 1 itself is used to increase or decrease the number of radio bearers used to transmit the data in the transmit buffer 1b of the mobile station 1 in order to achieve the data rate corresponding to the radio data service requested by the mobile station 1. Thus, Hwang not only does not, but also need not, describe the mobile station 1 transmitting any amount-of-data information to the network 2.

The outstanding Office Action appears to assert that selecting an appropriate number of radio bearers in order to meet a required data rate must involve a determination of the amount of data. However, even if, *arguendo*, the amount of data in the transmit buffer 1b is determined in order to select the number of radio bearers needed, that determination and selection are both done within the mobile station 1 itself. Thus, as stated above, Hwang fails to teach the “transmitting means for *transmitting* the communication-service-by-communication-service or transmit-channel-by-transmit-channel *amount-of-data information*

determined by said amount-of-data information determining means *to a base station*,” as recited by Claim 1.

Further, Hwang describes, at column 3, that the transmit buffer 1b stores transmit data according to the requested radio data service. Therefore, even if the transmit buffer 1b of Hwang is asserted as “storing data...on a communication-service-by-communication-service basis,” as recited by Claim 1, and even if Rydnell is asserted to teach monitoring, Hwang only describes that the MAC 1a establishes the number of radio bearers based on the total amount of data so that Hwang fails to teach any means to “determine communication-service-by-communication-service or transmit-channel-by-transmit-channel amount-of-data information,” as recited by Claim 1.

Rydnell does not cure the above-discussed deficiencies of Hwang with regard to Claim 1 and is not asserted for the features discussed above as deficient in Hwang.

Further, the outstanding Office Action itself describes, at page 3, that Rydnell describes monitoring the *downlink* data. That is, Rydnell describes, at cited columns 5 and 6, that “[t]he *mobile station monitors the downlink data*...in order to synchronize to the base station FPM phase,” but the downlink data is data transmitted to the mobile station rather than data stored in a transmission buffer and yet to be transmitted. Thus, Rydnell fails to cure the conceded deficiencies of Hwang, which it is asserted to cure, with regard to “monitoring the data which are stored in said transmit buffer,” as recited by Claim 1.

Therefore, Applicant respectfully requests that the rejection under 35 U.S.C. § 103(a) of Claim 1 and Claims 2-9, which depend therefrom, be withdrawn.

Claim 10 is directed to a base station and recites, *inter alia*, “a receiving means for receiving...amount-of-data information from a mobile station.”

Claim 11 is directed to a communication system including a mobile station comprising “a transmitting means for transmitting...amount-of-data information...to said base station.”

Claim 12 is directed to an amount-of-data information transmission method including “transmitting the amount-of-data information...to a base station.”

Claim 13 is directed to a transmission-control-information notification method including that “a base station receives amount-of-data information...from a mobile station.”

Claim 14 is directed to a wireless communication method including “transmitting the amount-of-data information...to a base station.”

As discussed above, Hwang fails to teach or suggest at least the above-quoted features of independent Claims 10-14. Further, Rydnell fails to cure the deficiencies of Hwang with regard to at least the above-quoted features of independent Claims 10-14.

Thus, Applicant respectfully requests that the rejection under 35 U.S.C. § 103(a) of Claims 10-14 be withdrawn.

Accordingly, the outstanding rejections are traversed and the pending claims are believed to be in condition for formal allowance. An early and favorable action to that effect is, therefore, respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, L.L.P.



Eckhard H. Kuesters  
Attorney of Record  
Registration No. 28,870

Customer Number  
**22850**

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 07/09)

Usha Munukutla-Parker  
Registration No. 61,939